receptors include, but are not limited to, MART-1, or peptides thereof or gp-100 or peptides thereof. In a preferred embodiment the chimeric receptor regonizes or binds to the MART-1 peptide, in particular epitopes M9-1 (TTAEEAAGI) (SEQ ID NO:1), M9-2 (AAGIGILTV) (SEQ ID NO:2), M10-3 (EAAGIGILTV) (SEQ ID NO 3), and M10-4 (AAGIGILTVI) (SEQ ID NO: 4) (shown in single letter amino acid code) or gp-100 peptide epitopes.

REMARKS

Amendments to the Specification

The specification has been amended to recite sequence identification numbers in paragraph [0047] in accordance with the Office's request. No new matter has been added by way of these amendments.

The Requirement for Restriction and Election of Species

The Office has set forth the following requirement for restriction:

(i) claims 1-8, 10-13, 15 and 40-43 as directed to lymphocytes having a chimeric receptor [sic – chimeric receptor or T-cell receptor] that reacts with a tumor antigen and a receptor that reacts with allogeneic peripheral blood cells and methods of making same, classified in class 435, subclass 325;

(ii) claims 1-7, 9-14 and 40-43 as directed to lymphocytes having a receptor that reacts with a tumor antigen and a receptor that reacts with a viral antigen and methods of making same, classified in class 435, subclass 325;

(iii) claims 16, 17, 19-22, 25-29, 31-34 and 37-39 as directed to a method of treating cancer using the lymphocytes of group (i), classified in class 424, subclass 93.1, and

(iv) claims 16-18, 20-30 and 32-39 as directed to a method of treating cancer using the lymphocytes of group (ii), classified in class 424, subclass 93.1.

The Office further requires an election of species with respect to "tumor antigen" and an election of species with respect to "chimeric receptor" [sic – chimeric receptor or T-cell receptor], with the proviso that the elected receptor recognize the elected tumor antigen.

Election with Traverse

Applicants hereby elect the claims of group (i) with traverse. Applicants further elect an antigen derived from an ovarian cancer as the tumor antigen and Mov-γ as the chimeric receptor. Claims 1, 3, 4, 6, 7, 10, 40, 41 and 42 are readable on the elected species.

Discussion of Restriction Requirement

There are two criteria for a proper requirement for restriction between patentably distinct inventions: (i) the inventions must be independent or distinct as claimed, and (ii) there must be a serious burden on the examiner if restriction is not required. M.P.E.P. § 803. Consequently, as set forth in M.P.E.P. § 803, "[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions."

In the case at hand, the Office has not even so much as alleged that there would be an undue burden on the Examiner to examine all of the claims together. In this regard, Applicants point out that the claims of groups (i) and (ii) are classified in the same class and subclass, the claims of groups (iii) and (iv) are classified in the same class and subclass, the claims of groups (i) and (iii) are directed to the same lymphocytes, and the claims of groups (ii) and (iv) are directed to the same lymphocytes. Furthermore, Applicants point out that claims 1-7, 10-13 and 40-43 are common to groups (i) and (ii), and claims 16, 17, 20-22, 25-29, 32-34 and 37-39 are common to groups (iii) and (iv). This is not to say that the claims stand or fall together. Rather, the overlap in classification and subclassification, the overlap in subject matter, and the overlap in claims mitigates against the necessity for a restriction requirement. Applicants also point out that the Office has failed to establish an undue burden with respect to the requirement for election of species.

In view of the foregoing, Applicants request the withdrawal of the restriction requirement in whole or in part. At the very least, Applicants request that either group (ii) or group (iii) be examined with group (i).

Discussion of Drawings

Applicants note that the Office has pointed out that the word "Fig." in Figs. 11A and 11F has a hole in it. Applicants submit herewith a substitute page of informal drawings for

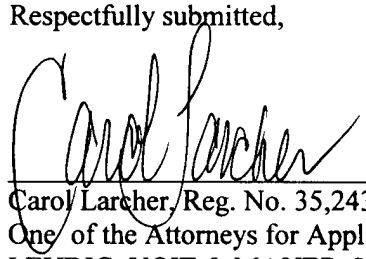
Figs. 11A-11J, which does not have hole-punches through the word "Fig." with respect to Figs. 11A and 11F.

Discussion of Sequence Listing

The Office has set forth a requirement for submission of a Sequence Listing. According to the Office, the sequences on page 14, lines 13-14, do not have sequence identification numbers assigned to them. The Office requires the submission of a Sequence Listing, along with an amendment directing its entry into the specification, and a statement indicating that the paper copy and the disk copy of the Sequence Listing are the same as each other and do not introduce new matter.

Applicants have amended paragraph [0047] to recite sequence identification numbers. Applicants also have submitted herewith paper and disk copies of a Sequence Listing, and have directed entry of the Sequence Listing into the application. The paper copy and disk copy of the Sequence Listing are the same as each other and do not introduce new matter into the application.

Respectfully submitted,



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Date: September 4, 2002

CERTIFICATE OF MAILING

I hereby certify that this RESPONSE TO RESTRICTION REQUIREMENT, ELECTION OF SPECIES, AND NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES (along with any documents referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231.

Date: Sept. 4, 2002 Catherine M. Croffi

Amendment or ROA - General (Rev. 07/14/2002)